



UNITED STATES PATENT AND TRADEMARK OFFICE

T

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,819	09/17/2003	Andrzej Strak	TRSE121566	3439

26389 7590 08/29/2007
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

EXAMINER

PADEN, CAROLYN A

ART UNIT	PAPER NUMBER
----------	--------------

1761

MAIL DATE	DELIVERY MODE
-----------	---------------

08/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary	Application No.	Applicant(s)	
	10/664,819	STRAK ET AL.	
	Examiner	Art Unit	
	Carolyn A. Paden	1761	

All participants (applicant, applicant's representative, PTO personnel):

(1) Carolyn A. Paden. (3)_____

(2) Laura Cruz. (4)_____

Date of Interview: 27 August 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____

Claim(s) discussed: proposed amendments.

Identification of prior art discussed: all relied upon.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant presented proposed amendments to the claims for consideration (see attached). Examiner indicated that the rejection of the claims over the prior art of record would be maintained. For claim 1, steps a and b could be read to occur in the step, as shown in Kelly, column 4, lines 35-42. Examiner questioned whether surimi would necessarily be a cooked product. Application to be reconsidered on filing a formal response.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Carolyn Paden

CAROLYN PADEN 8-27-07
PRIMARY EXAMINER 1761

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

**CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}**

1420 Fifth Avenue, Suite 2800

Seattle, WA 98101-2347

206.682.8100

Facsimile No. 206.224.0779

FACSIMILE COVER SHEET

DATE: August 23, 2007

TO: Attention: Examiner Paden
U.S. Patent and Trademark Office

FACSIMILE NO: 571-273-1403

RE: Application No. 10/664,819
Confirmation No. 1751

OUR REFERENCE: TRSE-1-21566

FROM: Laura A. Cruz

(Facsimile No. 206.224.0779)

MESSAGE: Please see attached.

*** The information contained in this facsimile message is privileged and confidential information intended only for the use of the recipient named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, any distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address by mail. ***

We have 10 pages to send, including this sheet. If any pages need to be retransmitted, please call 206.682.8100, Ext. 1208.

mmw

TRSE21566AM3.DOC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: A. Strak et al. Attorney Docket No.: TRSE121566
Application No.: 10/664,819 Art Unit: 3439 / Confirmation No: 1751
Filed: September 17, 2003 Examiner: Carolyn A. Paden
Title: RESTRUCTURED SEAFOOD PRODUCTS USING SURIMI BINDER

DRAFT UNOFFICIAL AMENDMENT

Seattle, Washington 98101

August 23, 2007

TO THE COMMISSIONER FOR PATENTS:

To the Attention of Examiner Paden (Fax No. 571-273-1403)

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{LLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

-1-

TRSE121566AM3.DOC
08/23/07 1:48 PM

AMENDMENTS TO THE CLAIMS

1. (Currently amended) A method for making a restructured seafood product, comprising:

(a) treating the surfaces of more than one seafood portion with at least one of phosphate and salt for a ~~sufficient~~ time of about 30 seconds to about 2 to about 3 minutes and at a ~~sufficient~~ temperature of about 24°F to about 28°F to produce surface-modified portions;

(b) coating the modified surfaces with a ~~binder~~ surimi containing at least one of phosphate and salt, the amount of ~~binder~~ surimi being less than 10 wt.% of the seafood product; and

(c) forming the ~~binder-coated~~ surimi-coated, surface-modified seafood portions into a restructured product, the product including about 1 wt.% or less phosphate and/or salt and the seafood portions being one of either chunks or fillets.

2.-3. (Canceled)

4. (Original) The method of Claim 1, further comprising treating the surfaces of more than one seafood portion with phosphate and salt.

5. (Original) The method of Claim 4, wherein the salt is sodium chloride and the phosphate is a polyphosphate.

6. (Original) The method of Claim 4, wherein the salt is sodium chloride and the phosphate is tetrasodium pyrophosphate.

7. (Original) The method of Claim 1, wherein the seafood portions are one of at least a salmon, a whitefish, and a shellfish.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESSSM
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

8. (Canceled)
9. (Currently amended) The method of Claim 1, wherein the ~~surimi-based binder~~ surimi is derived from one of at least a salmon, a whitefish, and a shellfish.
10. (Currently amended) The method of Claim 1, wherein the seafood portions are derived from a salmon and the ~~binder~~ surimi is derived from a salmon.
11. (Original) The method of Claim 1, wherein the seafood portions are randomly oriented throughout the product.
12. (Original) The method of Claim 1, wherein the portions are methodically oriented throughout the product.
13. (Currently amended) The method of Claim 1, wherein the ~~binder~~ surimi comprises about 3% to about 7% by weight of the product.
14. (Canceled)
15. (Currently amended) The method of Claim 1, wherein the ~~binder~~ surimi comprises about 23% to about 53% water by weight.
- 16-17. (Canceled)
18. (Currently amended) The method of Claim 1, further comprising elevating the temperature of the product to greater than 32°F for a sufficient time to set the ~~binder~~ surimi.
19. (Original) The method of Claim 1, further comprising elevating the temperature of the product to about 350°F for about 15 seconds.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

20. (Original) The method of Claim 1, further comprising cooking the exterior surface of the product to a depth no more than about 1 mm.
21. (Original) The method of Claim 1, wherein the temperature of the seafood portions does not exceed 28°F during steps (a), (b), and (c).
22. (Original) The method of Claim 1, wherein the temperature of the seafood portions does not fall below 28°F during steps (a), (b), and (c).
23. (Original) The method of Claim 1, wherein the average seafood portion weight is no more than 1 ounce.
24. (Original) The method of Claim 1, wherein the seafood portions are fillets.
25. (Original) The method of Claim 24, wherein the fillets are molded into a shape in a nonfrozen condition.
26. (Original) The method of Claim 24, wherein the average weight of fillets does not exceed 4 ounces.
27. (Original) The method of Claim 1, wherein the product has at least one rounded surface.
28. (Currently amended) The method of Claim 1, wherein the binder surimi comprises less than 5% by weight of the product.
29. (Currently amended) The method of Claim 1, wherein the binder surimi comprises greater than 30% water by weight.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{LLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

30. (Currently amended) A method for making a restructured seafood product comprising:

treating a plurality of seafood portions with a phosphate and/or salt for a sufficient time and at a temperature of greater than 28°F to free binding sites on the surface of the seafood portions;

adding a ~~binder~~ surimi containing at least one of phosphate and salt and having functional groups suitable to attach to said binding sites through covalent and/or hydrogen bonding, the product including about 1 wt.% or less phosphate and/or salt; and

forming the seafood portions into a restructured seafood product, wherein the ~~binder~~ surimi comprises less than 10% by weight of the product and the seafood portions being one of either chunks or fillets.

31. (Original) The method of Claim 30, wherein the temperature is about 32°F.

32. (Currently amended) A restructured seafood product, comprising:

randomly arranged seafood portions being one of either chunks or fillets, said portions being bonded together through covalent and/or hydrogen bonding with a combination of a gelatinous material brought about through surface modification of the native proteins in the seafood portions and containing less than 10% by weight of a ~~surimi-based binder-bonding~~ surimi to bond to said gelatinous material; and

phosphate and/or salt in an amount of about 1 wt.% or less of the restructured product.

33. (Currently amended) A restructured seafood product, comprising:

methodically arranged seafood portions being one of either chunks or fillets, said portions being bonded together through covalent and/or hydrogen bonding with a combination of a gelatinous material brought about through surface modification of the native proteins in the

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESSTM
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

-5-

ILSE01566AM3.DOC
09/23/07 1:48 PM

seafood portions, using phosphate, and containing less than 10% by weight of a ~~surimi-based~~
~~binder bonding~~ surimi to bond to said gelatinous material; and

phosphate and/or salt in an amount of about 1 wt. % or less of the restructured product

34-37. (Canceled)

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{LLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

TRSEP21566AM3.DOC
08/23/07 1:48 PM

REMARKS

This paper is submitted unofficially to the Examiner for discussion purposes. This paper is responsive to the final Office Action mailed on July 3, 2007. Presently, Claims 1-15, and 18-33 are pending in the application. Claims 1-15 and 18-33 have been examined and stand rejected. Claims 2, 3, 8, 14, and 34-37 have been canceled.

The Rejection of Claims 1-5, 7-21, and 33 Under 35 U.S.C. § 103(a)

Claims 1-5, 7-21, and 33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,897,573 (Kelly) in view of U.S. Patent No. 3,036,923, Mahon.

Claims 1, 30, 32, and 33 have been amended.

Specifically, Claim 1 has been amended to recite a time of about 30 seconds to about 2 to about 3 minutes and a temperature of about 24°F to about 28°F.

Additionally, Claims 1, 30, 32, and 33 have been amended to recite surimi as the binder.

The Examiner is respectfully asked to consider that the binding method of the invention provides greater cohesion between seafood portions using less surimi to unite the seafood portions into a cohesive product visually appearing very similar to a whole piece of seafood. To do this, the method modifies the surfaces of the seafood causing rearrangement of the proteins, thus, making open binding sites available for the surimi to attach to the sites. According to the method, the surface treatment is a much milder treatment than what is conventionally thought of as fully extracting salt-soluble proteins from fish. For example; it was found that treating the seafood portions at a temperature below the freezing point of water and for a short duration with phosphate and, optionally, salt would result in the creation of binding sites. The binding sites formed and the seafood portions are then used in combination with surimi to bond the seafood portions together, thus, requiring much less surimi to form a cohesive product (see the application at page 5, lines 3-20). The limitations of time and temperature of the much milder

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{LLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

treatment are now embodied in Claim 1. Furthermore, the claims have also been amended to recite surimi as the binder.

In contrast to the claims, Kelly discloses a much harsher treatment. For example, for Salmon, Kelly discloses allowing about 20 to 60 minutes at room temperature, and for saithe, Kelly discloses treatment with salt for about three days at room temperature (Col. 3, lines 1-18). Accordingly, there is no reason to believe that Kelly discloses the same effect taking place at the surface of the seafood as claimed. Furthermore, nowhere does Kelly disclose a surimi binder. At most, Kelly discloses a special binder made by finely comminuting raw bone-free fish muscle and adding to 1 part by weight of this 0.5 to 1.5 parts by weight of water, from 0.01 to 0.10 parts by weight of salt and from 0.03 to 0.08 parts by weight of a food grade phosphate (Col. 2, lines 32-38). In contrast, surimi is generally understood to refer to a food product which has been pulverized into a *paste and cooked*. However, nowhere does Kelly describe that the special binder is cooked prior to application.

Even combining the disclosures of Mahon with those of Kelly does not lead one to the claimed invention. Mahon is related to the preservation of fish, and more particularly, to inhibiting the loss of moisture, soluble protein, minerals, and vitamins of frozen fish on thawing and cooking (Col. 1, lines 9-12). Mahon discloses the treatment of fish fillets by dipping in solutions of potassium and sodium salts of phosphate. However, these are only *dipping solutions* which at most contain only 50% of phosphate salt (Col. 2, Table 1). Therefore, there is no reason to believe that such minimal treatment with dilute solutions would have the same desired effect as applicants' invention. Furthermore, Mahon is only used for the teaching of phosphates on fish fillets, and does not change the basic and essential elements of Kelly, which are higher treatment times and higher treatment temperatures and the use of a non-surimi binder.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{LLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

Accordingly, for all the reasons above, applicants submit that the proposed claim amendments overcome the rejection under Kelly alone, or even in combination with Mahon.

CONCLUSION

Applicants' attorney has scheduled a telephone interview with Examiner Paden to discuss the proposed claim amendments and prior art references on Monday, August 27, 2007, at 10:00 a.m. EST.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PUC}

DRAFT ONLY

Laura A. Cruz
Registration No. 46,649
Direct Dial No. 206.695.1725

LXC:jam

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PUC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100